

29 postconviction actions authorized by statute; amending
 30 s. 27.702, F.S.; reestablishing the northern region
 31 Capital Collateral Regional Counsel; amending s.
 32 27.703, F.S.; requiring the court to hold a hearing
 33 when a conflict of interest in a postconviction
 34 capital case proceeding is alleged; amending s.
 35 27.708, F.S.; specifying that postconviction capital
 36 case attorneys comply with statutory requirements;
 37 amending s. 27.7081, F.S.; establishing procedures for
 38 public records production in postconviction capital
 39 cases proceedings; amending s. 27.7091, F.S.; deleting
 40 language recommending that the Florida Supreme Court
 41 adopt certain rules relating to postconviction capital
 42 case proceedings; amending s. 27.711, F.S.; deleting
 43 obsolete language relating to the northern regional
 44 office of the capital collateral regional counsel;
 45 amending s. 27.711, F.S., removing references to rules
 46 of criminal procedure that relate to postconviction
 47 capital case proceedings; amending s. 922.095, F.S.;
 48 specifying that postconviction claims in capital cases
 49 that aren't pursued within statutory time limits are
 50 barred; reenacting s. 922.108, F.S.; specifying that
 51 sentence of death may not specify any particular
 52 method of execution; amending s. 924.055, F.S.;
 53 providing legislative intent regarding postconviction
 54 proceedings in capital cases; amending s. 924.056,
 55 F.S.; establishing procedures for initial
 56 postconviction motions in capital cases; amending s.

57 924.057, F.S.; providing that postconviction
58 proceedings in capital cases in which conviction and
59 sentence of death have been affirmed on direct appeal
60 before July 1, 2015, are governed by the rules and
61 laws in effect prior to the effective date of this
62 act; amending s. 924.058, F.S.; establishing
63 procedures for successive postconviction motions in
64 capital cases; creating s. 924.0581, F.S.;

65 establishing procedures the appeal of capital case
66 postconviction motions to the Florida Supreme Court;
67 creating s. 924.0585, F.S.; requiring the Florida
68 Supreme Court to annually report certain information
69 regarding capital postconviction cases to the
70 legislature; requiring courts to report specified
71 findings of ineffective assistance of counsel to the
72 Florida Bar; requiring the Florida Bar to annual
73 report to the legislature certain information abuse
74 attorney found ineffective; amending s. 924.0585,
75 F.S.; specifying that capital postconviction actions
76 filed in violation of statutory timeframes are barred
77 and claims raised therein waived; amending s. 924.059,
78 F.S.; requiring the court to hold a hearing when a
79 conflict of interest in a postconviction capital case
80 proceeding is alleged; providing timeframes relating
81 to such hearing; creating s. 924.0591, F.S.;

82 establishing procedures for capital case
83 postconviction proceedings where prisoner is
84 incompetent to proceed; creating s. 924.0592, F.S.;

85 | establishing procedures for capital case
 86 | postconviction proceedings after a death warrant has
 87 | been issued; creating s. 924.0593, F.S.; establishing
 88 | procedures for capital case postconviction proceedings
 89 | where prisoner is insane at the time of execution;
 90 | creating s. 924.0595, F.S.; establishing procedures
 91 | for capital case postconviction proceedings where
 92 | prisoner seeks to dismiss postconviction proceedings
 93 | and postconviction counsel; providing s severability
 94 | clause; providing an effective date.

95 |
 96 | WHEREAS, it is in the best interest of the administration
 97 | of justice that a sentence of death ordered by a court of this
 98 | state be carried out in a manner that is fair, just, and humane
 99 | and that conforms to constitutional requirements, and

100 | WHEREAS, in order for capital punishment to be fair, just,
 101 | and humane for both the family of victims and for offenders,
 102 | there must be a prompt and efficient administration of justice
 103 | following any sentence of death ordered by the courts of this
 104 | state, and

105 | WHEREAS, in order to ensure the fair, just, and humane
 106 | administration of capital punishment, it is necessary for the
 107 | Legislature to comprehensively address the processes by which an
 108 | offender sentenced to death may pursue postconviction and
 109 | collateral review of the judgment and the sentence of death, and

110 | WHEREAS, the Death Penalty Reform Act of 2000, chapter
 111 | 2000-3, Laws of Florida, was designed to accomplish these

112 objectives and was passed by the Legislature and approved by the
 113 Governor of Florida in January of 2000, and

114 WHEREAS, the Death Penalty Reform Act of 2000, chapter
 115 2000-3, Laws of Florida, was declared unconstitutional by the
 116 Florida Supreme Court three months after becoming a law in *Allen*
 117 *v. Butterworth*, 756 So.2d 52 (Fla. 2000), as being an
 118 encroachment on the court's "exclusive power to 'adopt rules for
 119 the practice and procedure in all courts,'" and

120 WHEREAS, the Constitution of the State of Florida has been
 121 amended to require postconviction and collateral review of
 122 capital cases resulting in a sentence of death to be governed
 123 by, and to the extent provided by, general law, and

124 WHEREAS, provisions of the Death Penalty Reform Act of 2000
 125 which were held unconstitutional may now be reenacted, while
 126 other provisions can be modified, and new provisions added to
 127 ensure a prompt and efficient administration of justice
 128 following any sentence of death, NOW, THEREFORE,

129

130 Be It Enacted by the Legislature of the State of Florida:

131

132 Section 1. This act may be cited as the Timely Justice Act
 133 of 2013.

134 Section 2. Effective July 1, 2013, subsection (1) of
 135 section 27.40, Florida Statutes, is amended to read:

136 27.40 Court-appointed counsel; circuit registries; minimum
 137 requirements; appointment by court.—

138 (1) Counsel shall be appointed to represent any individual
 139 in a criminal or civil proceeding entitled to court-appointed

140 counsel under the Federal or State Constitution or as authorized
 141 by general law. Such proceedings do not include proceedings for
 142 relief by executive clemency in which the application for
 143 executive clemency was filed by a person who has been convicted
 144 and sentenced to death on or after July 1, 2013. The court shall
 145 appoint a public defender to represent indigent persons as
 146 authorized in s. 27.51. The office of criminal conflict and
 147 civil regional counsel shall be appointed to represent persons
 148 in those cases in which provision is made for court-appointed
 149 counsel but the public defender is unable to provide
 150 representation due to a conflict of interest or is not
 151 authorized to provide representation.

152 Section 3. Effective July 1, 2013, paragraph (a) of
 153 subsection (5) of section 27.51, Florida Statutes, is amended to
 154 read:

155 27.51 Duties of public defender.—

156 (5) (a) When direct appellate proceedings prosecuted by a
 157 public defender on behalf of an accused and challenging a
 158 judgment of conviction and sentence of death terminate in an
 159 affirmance of such conviction and sentence, whether by the
 160 Florida Supreme Court or by the United States Supreme Court or
 161 by expiration of any deadline for filing such appeal in a state
 162 or federal court, the public defender shall notify the accused
 163 of his or her rights pursuant to Rule 3.850, Florida Rules of
 164 Criminal Procedure, including any time limits pertinent thereto,
 165 and shall advise such person that representation in any
 166 collateral proceedings is the responsibility of the capital
 167 collateral regional counsel. The public defender shall then

168 forward all original files on the matter to the capital
 169 collateral regional counsel, retaining such copies for his or
 170 her files as may be desired. However, for clemency applications
 171 pending or filed before July 1, 2013, the trial court shall
 172 retain the power to appoint the public defender or other
 173 attorney not employed by the capital collateral regional counsel
 174 to represent such person in proceedings for relief by executive
 175 clemency pursuant to ss. 27.40 and 27.5303.

176 Section 4. Paragraph (a) of subsection (5) of section
 177 27.51, Florida Statutes, as amended by this act, is amended to
 178 read:

179 27.51 Duties of public defender.—

180 (5) (a) When direct appellate proceedings prosecuted by a
 181 public defender on behalf of an accused and challenging a
 182 judgment of conviction and sentence of death terminate in an
 183 affirmance of such conviction and sentence, whether by the
 184 Florida Supreme Court or by the United States Supreme Court or
 185 by expiration of any deadline for filing such appeal in a state
 186 or federal court, the public defender shall notify the accused
 187 of his or her rights pursuant to s. 924.056~~Rule 3.850, Florida~~
 188 ~~Rules of Criminal Procedure~~, including any time limits pertinent
 189 thereto, and shall advise such person that representation in any
 190 collateral proceedings is the responsibility of the capital
 191 collateral regional counsel. The public defender shall then
 192 forward all original files on the matter to the capital
 193 collateral regional counsel, retaining such copies for his or
 194 her files as may be desired. However, for clemency applications
 195 pending or filed before July 1, 2013, the trial court shall

196 retain the power to appoint the public defender or other
 197 attorney not employed by the capital collateral regional counsel
 198 to represent such person in proceedings for relief by executive
 199 clemency pursuant to ss. 27.40 and 27.5303.

200 Section 5. Effective July 1, 2013, subsection (9) of
 201 section 27.511, Florida Statutes, is amended to read:

202 27.511 Offices of criminal conflict and civil regional
 203 counsel; legislative intent; qualifications; appointment;
 204 duties.—

205 (9) When direct appellate proceedings prosecuted by the
 206 office of criminal conflict and civil regional counsel on behalf
 207 of an accused and challenging a judgment of conviction and
 208 sentence of death terminate in an affirmance of such conviction
 209 and sentence, whether by the Supreme Court or by the United
 210 States Supreme Court or by expiration of any deadline for filing
 211 such appeal in a state or federal court, the office of criminal
 212 conflict and civil regional counsel shall notify the accused of
 213 his or her rights pursuant to Rule 3.850, Florida Rules of
 214 Criminal Procedure, including any time limits pertinent thereto,
 215 and shall advise such person that representation in any
 216 collateral proceedings is the responsibility of the capital
 217 collateral regional counsel. The office of criminal conflict and
 218 civil regional counsel shall forward all original files on the
 219 matter to the capital collateral regional counsel, retaining
 220 such copies for his or her files as may be desired or required
 221 by law. However, for clemency applications pending or filed
 222 before July 1, 2013, the trial court shall retain the power to
 223 appoint the office of criminal conflict and civil regional

224 counsel or other attorney not employed by the capital collateral
 225 regional counsel to represent such person in proceedings for
 226 relief by executive clemency pursuant to ss. 27.40 and 27.5303.

227 Section 6. Subsection (9) of section 27.511, Florida
 228 Statutes, as amended by this act, is amended to read:

229 27.511 Offices of criminal conflict and civil regional
 230 counsel; legislative intent; qualifications; appointment;
 231 duties.—

232 (9) When direct appellate proceedings prosecuted by the
 233 office of criminal conflict and civil regional counsel on behalf
 234 of an accused and challenging a judgment of conviction and
 235 sentence of death terminate in an affirmance of such conviction
 236 and sentence, whether by the Supreme Court or by the United
 237 States Supreme Court or by expiration of any deadline for filing
 238 such appeal in a state or federal court, the office of criminal
 239 conflict and civil regional counsel shall notify the accused of
 240 his or her rights pursuant to s. 924.056~~Rule 3.850, Florida~~
 241 ~~Rules of Criminal Procedure~~, including any time limits pertinent
 242 thereto, and shall advise such person that representation in any
 243 collateral proceedings is the responsibility of the capital
 244 collateral regional counsel. The office of criminal conflict and
 245 civil regional counsel shall forward all original files on the
 246 matter to the capital collateral regional counsel, retaining
 247 such copies for his or her files as may be desired or required
 248 by law. However, for clemency applications pending or filed
 249 before July 1, 2013, the trial court shall retain the power to
 250 appoint the office of criminal conflict and civil regional
 251 counsel or other attorney not employed by the capital collateral

252 regional counsel to represent such person in proceedings for
 253 relief by executive clemency pursuant to ss. 27.40 and 27.5303.

254 Section 7. Effective July 1, 2013, subsection (4) of
 255 section 27.5303, Florida Statutes, is amended to read:

256 27.5303 Public defenders; criminal conflict and civil
 257 regional counsel; conflict of interest.—

258 (4) (a) If a defendant is convicted and the death sentence
 259 is imposed, the appointed attorney shall continue representation
 260 through appeal to the Supreme Court. The attorney shall be
 261 compensated as provided in s. 27.5304. If the attorney first
 262 appointed is unable to handle the appeal, the court shall
 263 appoint another attorney and that attorney shall be compensated
 264 as provided in s. 27.5304.

265 (b) The public defender or an attorney appointed pursuant
 266 to this section may be appointed by the court rendering the
 267 judgment imposing the death penalty to represent an indigent
 268 defendant who, before July 1, 2013, has an application for
 269 executive clemency pending or has applied for executive clemency
 270 as relief from the execution of the judgment imposing the death
 271 penalty.

272 (c) When the appointed attorney in a capital case has
 273 completed the duties imposed by this section, the attorney shall
 274 file a written report in the trial court stating the duties
 275 performed by the attorney and apply for discharge.

276 Section 8. Effective July 1, 2013, subsection (5) of
 277 section 27.5304, Florida Statutes, is amended to read:

278 27.5304 Private court-appointed counsel; compensation;
 279 notice.—

280 (5) The compensation for representation in a criminal
 281 proceeding shall not exceed the following:

282 1. For misdemeanors and juveniles represented at the trial
 283 level: \$1,000.

284 2. For noncapital, nonlife felonies represented at the
 285 trial level: \$2,500.

286 3. For life felonies represented at the trial level:
 287 \$3,000.

288 4. For capital cases represented at the trial level:
 289 \$15,000. For purposes of this subparagraph, a "capital case" is
 290 any offense for which the potential sentence is death and the
 291 state has not waived seeking the death penalty.

292 5. For representation on appeal: \$2,000.

293 (b) If a death sentence is imposed and affirmed on appeal
 294 to the Supreme Court, the appointed attorney shall be allowed
 295 compensation, not to exceed \$1,000, for attorney fees and costs
 296 incurred in representing the defendant as to an application for
 297 executive clemency submitted before July 1, 2013, with
 298 compensation to be paid out of general revenue from funds
 299 budgeted to the Department of Corrections.

300 Section 9. Effective July 1, 2013, subsection (2) of
 301 section 27.701, Florida Statutes, is repealed.

302 Section 10. Subsection (1) of section 27.702, Florida
 303 Statutes, is reenacted to read:

304 27.702 Duties of the capital collateral regional counsel;
 305 reports.—

306 (1) The capital collateral regional counsel shall
 307 represent each person convicted and sentenced to death in this

308 state for the sole purpose of instituting and prosecuting
 309 collateral actions challenging the legality of the judgment and
 310 sentence imposed against such person in the state courts,
 311 federal courts in this state, the United States Court of Appeals
 312 for the Eleventh Circuit, and the United States Supreme Court.
 313 The capital collateral regional counsel and the attorneys
 314 appointed pursuant to s. 27.710 shall file only those
 315 postconviction or collateral actions authorized by statute. The
 316 three capital collateral regional counsel's offices shall
 317 function independently and be separate budget entities, and the
 318 regional counsel shall be the office heads for all purposes. The
 319 Justice Administrative Commission shall provide administrative
 320 support and service to the three offices to the extent requested
 321 by the regional counsel. The three regional offices shall not be
 322 subject to control, supervision, or direction by the Justice
 323 Administrative Commission in any manner, including, but not
 324 limited to, personnel, purchasing, transactions involving real
 325 or personal property, and budgetary matters.

326 Section 11. Effective July 1, 2013, paragraph (b) of
 327 subsection (4) of section 27.702, Florida Statutes, is amended
 328 to read:

329 27.702 Duties of the capital collateral regional counsel;
 330 reports.—

331 (4)

332 (b) Each capital collateral regional counsel ~~and each~~
 333 ~~attorney participating in the pilot program in the northern~~
 334 ~~region pursuant to s. 27.701(2)~~ shall provide a quarterly report
 335 to the President of the Senate and the Speaker of the House of

336 Representatives which details the number of hours worked by
 337 investigators and legal counsel per case and the amounts per
 338 case expended during the preceding quarter in investigating and
 339 litigating capital collateral cases.

340 Section 12. Section 27.703, Florida Statutes, is amended
 341 to read:

342 27.703 Conflict of interest and substitute counsel.-

343 (1) The capital collateral regional counsel shall not
 344 accept an appointment or take any other action that will create
 345 a conflict of interest. If, at any time during the
 346 representation of a person, the capital collateral regional
 347 counsel alleges ~~determines~~ that the continued representation of
 348 that person creates a conflict of interest, the sentencing court
 349 shall hold a hearing in accordance with s. 924.059 to determine
 350 if an actual conflict exists. If the court determines that an
 351 actual conflict exists and that such conflict will adversely
 352 affect the capital collateral regional counsel's performance,
 353 the court shall, ~~upon application by the regional counsel,~~
 354 designate another regional counsel. If the replacement regional
 355 counsel alleges that a conflict of interest exists, the
 356 sentencing court shall hold a hearing in accordance with s.
 357 924.059 to determine if an actual conflict exists. If the court
 358 determines that an actual conflict exists and that such conflict
 359 will adversely affect the replacement regional counsel's
 360 performance, the court shall ~~and, only if a conflict exists~~
 361 ~~with the other two counsel,~~ appoint one or more members of The
 362 Florida Bar to represent the person ~~one or more of such persons.~~

363 (2) Appointed counsel shall be paid from funds

364 appropriated to the Chief Financial Officer. The hourly rate may
 365 not exceed \$100. However, all appointments of private counsel
 366 under this section shall be in accordance with ss. 27.710 and
 367 27.711.

368 (3) Prior to employment, counsel appointed pursuant to
 369 this section must have participated in at least five felony jury
 370 trials, five felony appeals, or five capital postconviction
 371 evidentiary hearings, or any combination of at least five of
 372 such proceedings.

373 Section 13. Subsection (2) of section 27.708, Florida
 374 Statutes, is amended to read:

375 27.708 Access to inmates ~~prisoners; compliance with the~~
 376 ~~Florida Rules of Criminal Procedure;~~ records requests.-

377 (2) The capital collateral regional counsel and contracted
 378 private counsel must timely comply with all statutory
 379 requirements ~~provisions of the Florida Rules of Criminal~~
 380 ~~Procedure~~ governing collateral review of capital cases.

381 Section 14. Section 27.7081, Florida Statutes, is amended
 382 to read:

383 (Substantial rewording of section. See s. 27.7081, F.S., for
 384 present text.)

385 27.7081 Capital postconviction public records production.-

386 (1) DEFINITIONS - As used in this section, the term:

387 (a) "Trial court" means:

388 1. The judge who entered the judgment and imposed the
 389 sentence of death; or

390 2. If a motion for postconviction relief in a capital case
 391 has been filed and a different judge has already been assigned

392 to that motion, the judge who is assigned to rule on that
 393 motion.

394 (b) "Public records" has the same meaning as provided in s.
 395 119.011.

396 (c) "Collateral counsel" means a capital collateral
 397 regional counsel from one of the three regions in Florida, a
 398 private attorney who has been appointed to represent a capital
 399 defendant for postconviction litigation, or a private attorney
 400 who has been hired by the capital defendant or who has agreed to
 401 work pro bono for a capital defendant for postconviction
 402 litigation.

403 (d) "Agency" has the same meaning as provided in s.
 404 119.011.

405 (2) APPLICABILITY AND SCOPE - This section only applies to
 406 the production of public records for capital postconviction
 407 defendants and does not change or alter the time periods
 408 specified in s. 924.056 or s. 924.058. Furthermore, this section
 409 does not affect, expand, or limit the production of public
 410 records for any purposes other than use in a proceeding held
 411 pursuant to s. 924.056 or s. 924.058. This section shall not be
 412 a basis for renewing public records requests that have been
 413 initiated previously or for relitigating issues pertaining to
 414 production of public records upon which a court has ruled prior
 415 to July 1, 2015. Public records requests made in postconviction
 416 proceedings in capital cases in which the conviction and
 417 sentence of death have been affirmed on direct appeal before
 418 July 1, 2015, shall be governed by the rules and laws in effect
 419 immediately prior to the effective date of this act.

420 (3) RECORDS REPOSITORY - The Secretary of State shall
421 establish and maintain a records repository for the purpose of
422 archiving capital postconviction public records as provided for
423 in this section.

424 (4) FILING AND SERVICE

425 (a) The original of all notices, requests, or objections
426 filed under this section must be filed with the clerk of the
427 trial court. Copies must be served on the trial court, the
428 attorney general, the state attorney, collateral counsel, and
429 any affected person or agency, unless otherwise required by this
430 section.

431 (b) Service shall be made pursuant to Florida Rule of
432 Criminal Procedure 3.030.

433 (c) In all instances requiring written notification or
434 request, the party who has the obligation of providing a
435 notification or request shall provide proof of receipt.

436 (d) Persons and agencies receiving postconviction public
437 records notifications or requests pursuant to this section are
438 not required to furnish records filed in a trial court prior to
439 the receipt of the notice.

440 (5) ACTION UPON ISSUANCE OF THE MANDATE ON DIRECT APPEAL

441 (a) Within 15 days after receiving written notification of
442 the Supreme Court of Florida's mandate affirming the sentence of
443 death, the attorney general shall file with the trial court a
444 written notice of the mandate and serve a copy of it upon the
445 state attorney who prosecuted the case, the Department of
446 Corrections, and the defendant's trial counsel. The notice to
447 the state attorney shall direct the state attorney to submit

448 public records to the records repository within 90 days after
449 receipt of written notification and to notify each law
450 enforcement agency involved in the investigation of the capital
451 offense to submit public records to the records repository
452 within 90 days after receipt of written notification. The notice
453 to the Department of Corrections shall direct the department to
454 submit public records to the records repository within 90 days
455 after receipt of written notification.

456 (b) Within 90 days after receiving written notification of
457 issuance of the Supreme Court of Florida's mandate affirming a
458 death sentence, the state attorney shall provide written
459 notification to the attorney general of the name and address of
460 any additional person or agency that has public records
461 pertinent to the case.

462 (c) Within 90 days after receiving written notification of
463 issuance of the Supreme Court of Florida's mandate affirming a
464 death sentence, the defendant's trial counsel shall provide
465 written notification to the attorney general of the name and
466 address of any person or agency with information pertinent to
467 the case which has not previously been provided to collateral
468 counsel.

469 (d) Within 15 days after receiving written notification of
470 any additional person or agency pursuant to paragraphs (b) or
471 (c), the attorney general shall notify all persons or agencies
472 identified pursuant to paragraphs (b) or (c) that these persons
473 or agencies are required by law to copy, index, and deliver to
474 the records repository all public records pertaining to the case
475 that are in their possession. The person or agency shall bear

476 the costs related to copying, indexing, and delivering the
477 records.

478 (6) ACTION UPON RECEIPT OF NOTICE OF MANDATE

479 (a) Within 15 days after receipt of a written notice of the
480 mandate from the attorney general, the state attorney shall
481 provide written notification to each law enforcement agency
482 involved in the specific case to submit public records to the
483 records repository within 90 days after receipt of written
484 notification. A copy of the notice shall be served upon the
485 defendant's trial counsel.

486 (b) Within 90 days after receipt of a written notice of the
487 mandate from the attorney general, the state attorney shall
488 copy, index, and deliver to the records repository all public
489 records that were produced in the state attorney's investigation
490 or prosecution of the case. The state attorney shall bear the
491 costs. The state attorney shall also provide written
492 notification to the attorney general of compliance with this
493 section, including certifying that, to the best of the state
494 attorney's knowledge or belief, all public records in the state
495 attorney's possession have been copied, indexed, and delivered
496 to the records repository as required by this section.

497 (c) Within 90 days after receipt of written notification of
498 the mandate from the attorney general, the Department of
499 Corrections shall copy, index, and deliver to the records
500 repository all public records determined by the department to be
501 relevant to the subject matter of a proceeding under s. 924.056
502 or s. 924.058, unless such copying, indexing, and delivering
503 would be unduly burdensome. The department shall bear the costs.

504 The secretary of the department shall provide written
 505 notification to the attorney general of compliance with this
 506 paragraph certifying that, to the best of the secretary of the
 507 department's knowledge or belief, all such public records in the
 508 possession of the secretary of the department have been copied,
 509 indexed, and delivered to the records repository.

510 (d) Within 90 days after receipt of written notification of
 511 the mandate from the state attorney, a law enforcement agency
 512 shall copy, index, and deliver to the records repository all
 513 public records which were produced in the investigation or
 514 prosecution of the case. Each agency shall bear the costs. The
 515 chief law enforcement officer of each law enforcement agency
 516 shall provide written notification to the attorney general of
 517 compliance with this paragraph including certifying that, to the
 518 best of the chief law enforcement officer's knowledge or belief,
 519 all such public records in possession of the agency or in
 520 possession of any employee of the agency, have been copied,
 521 indexed, and delivered to the records repository.

522 (e) Within 90 days after receipt of written notification of
 523 the mandate from the attorney general, each additional person or
 524 agency identified pursuant to paragraphs (5) (b) or (5) (c) shall
 525 copy, index, and deliver to the records repository all public
 526 records which were produced during the prosecution of the case.
 527 The person or agency shall bear the costs. The person or agency
 528 shall provide written notification to the attorney general of
 529 compliance with this subdivision and shall certify, to the best
 530 of the person or agency's knowledge and belief, all such public
 531 records in the possession of the person or agency have been

532 copied, indexed, and delivered to the records repository.

533 (7) EXEMPT OR CONFIDENTIAL PUBLIC RECORDS

534 (a) Any public records delivered to the records repository
 535 pursuant to this section that are confidential or exempt from
 536 the requirements of s. 119.07(1) or article I, section 24(a),
 537 Florida Constitution, must be separately contained, without
 538 being redacted, and sealed. The outside of the container must
 539 clearly identify that the public record is confidential or
 540 exempt and that the seal may not be broken without an order of
 541 the trial court. The outside of the container must identify the
 542 nature of the public records and the legal basis for the
 543 exemption.

544 (b) Upon the entry of an appropriate court order, sealed
 545 containers subject to an inspection by the trial court shall be
 546 shipped to the clerk of court. The containers may be opened only
 547 for inspection by the trial court in camera. The moving party
 548 shall bear all costs associated with the transportation and
 549 inspection of such records by the trial court. The trial court
 550 shall perform the unsealing and inspection without ex parte
 551 communications and in accord with procedures for reviewing
 552 sealed documents.

553 (8) DEMAND FOR ADDITIONAL PUBLIC RECORDS

554 (a) Within 240 days after collateral counsel is appointed,
 555 retained, or appears pro bono, such counsel shall send a written
 556 demand for additional public records to each person or agency
 557 submitting public records or identified as having information
 558 pertinent to the case under subsection (5).

559 (b) Within 90 days of receipt of the written demand, each

560 person or agency notified under this subsection shall deliver to
 561 the records repository any additional public records in the
 562 possession of the person or agency that pertain to the case and
 563 shall certify to the best of the person or agency's knowledge
 564 and belief that all additional public records have been
 565 delivered to the records repository or, if no additional public
 566 records are found, shall recertify that the public records
 567 previously delivered are complete.

568 (c) Within 60 days of receipt of the written demand, any
 569 person or agency may file with the trial court an objection to
 570 the written demand described in paragraph (a). The trial court
 571 shall hold a hearing and issue a ruling within 30 days after the
 572 filing of any objection, ordering a person or agency to produce
 573 additional public records if the court determines each of the
 574 following exists:

575 1. Collateral counsel has made a timely and diligent search
 576 as provided in this section.

577 2. Collateral counsel's written demand identifies, with
 578 specificity, those additional public records that are not at the
 579 records repository.

580 3. The additional public records sought are relevant to the
 581 subject matter of a postconviction proceeding under s. 924.056
 582 or s. 924.058, or appear reasonably calculated to lead to the
 583 discovery of admissible evidence.

584 4. The additional public records request is not overly
 585 broad or unduly burdensome.

586 (9) LIMITATION ON POSTPRODUCTION REQUEST FOR ADDITIONAL
 587 RECORDS

588 (a) In order to obtain public records in addition to those
 589 provided under subsections (6), (7), and (8), collateral counsel
 590 shall file an affidavit in the trial court which:

591 1. Attests that collateral counsel has made a timely and
 592 diligent search of the records repository; and

593 2. Identifies with specificity those public records not at
 594 the records repository; and

595 3. Establishes that the additional public records are
 596 either relevant to the subject matter of the postconviction
 597 proceeding or are reasonably calculated to lead to the discovery
 598 of admissible evidence; and

599 4. Shall be served in accord with subsection (4).

600 (b) Within 30 days after the affidavit of collateral
 601 counsel is filed, the trial court shall order a person or agency
 602 to produce additional public records only upon finding each of
 603 the following:

604 1. Collateral counsel has made a timely and diligent search
 605 of the records repository;

606 2. Collateral counsel's affidavit identifies with
 607 specificity those additional public records that are not at the
 608 records repository;

609 3. The additional public records sought are either relevant
 610 to the subject matter of a capital postconviction proceeding or
 611 appear reasonably calculated to lead to the discovery of
 612 admissible evidence; and

613 4. The additional records request is not overly broad or
 614 unduly burdensome.

615 (10) Collateral counsel shall provide the personnel,

616 supplies, and any necessary equipment to copy records held at
 617 the records repository.

618 (11) AUTHORITY OF THE COURT - In proceedings under this
 619 section the trial court may:

620 (a) Compel or deny disclosure of records;

621 (b) Conduct an in-camera inspection;

622 (c) Extend the times in this section upon a showing of good
 623 cause;

624 (d) Impose sanctions upon any party, person, or agency
 625 affected by this section including initiating contempt
 626 proceedings, taxing expenses, extending time, ordering facts to
 627 be established, and granting other relief; and

628 (e) Resolve any dispute arising under this section unless
 629 jurisdiction is in an appellate court.

630 (12) SCOPE OF PRODUCTION AND RESOLUTION OF PRODUCTION
 631 ISSUES

632 (a) Unless otherwise limited, the scope of production under
 633 any part of this section shall be that the public records sought
 634 are not privileged or immune from production and are either
 635 relevant to the subject matter of a postconviction proceeding
 636 under s. 924.056 or s. 924.058 or are reasonably calculated to
 637 lead to the discovery of admissible evidence.

638 (b) Any objections or motions to compel production of
 639 public records pursuant to this section shall be filed within 30
 640 days after the end of the production time period provided by
 641 this section. Counsel for the party objecting or moving to
 642 compel shall file a copy of the objection or motion directly
 643 with the trial court. The trial court shall hold a hearing on

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644 the objection or motion on an expedited basis.

645 (c) The trial court may order mediation for any controversy
646 as to public records production pursuant to this section in
647 accord with Florida Rules of Civil Procedure 1.700, 1.710,
648 1.720, 1.730, or the trial court may refer any such controversy
649 to a magistrate in accord with Florida Rule of Civil Procedure
650 1.490.

651 (13) DESTRUCTION OF RECORDS REPOSITORY RECORDS - Sixty days
652 after a capital sentence is carried out, after a defendant is
653 released from incarceration following the granting of a pardon
654 or reversal of the sentence, or after a defendant has been
655 resentenced to a term of years, the attorney general shall
656 provide written notification of this occurrence to the secretary
657 of state. After the expiration of the 60 days, the secretary of
658 state may then destroy the copies of the records held by the
659 records repository that pertain to that case, unless an
660 objection to the destruction is filed in the trial court and
661 served upon the secretary of state. If no objection has been
662 served within the 60-day period, the records may then be
663 destroyed. If an objection is served, the records shall not be
664 destroyed until a final disposition of the objection.

665 Section 15. Effective July 1, 2013, section 27.7091,
666 Florida Statutes, is amended to read:

667 27.7091 Legislative recommendations to Supreme Court;
668 postconviction proceedings; pro bono service credit.—In the
669 interest of promoting justice and integrity with respect to
670 capital collateral representation, the Legislature recommends
671 that the Supreme Court~~+~~

672 ~~(1) Adopt by rule the provisions of s. 924.055, which~~
 673 ~~limit the time for postconviction proceedings in capital cases.~~

674 ~~(2) Award pro bono service credit for time spent by an~~
 675 ~~attorney in providing legal representation to an individual~~
 676 ~~sentenced to death in this state, regardless of whether the~~
 677 ~~attorney receives compensation for such representation.~~

678 Section 16. Effective July 1, 2013, subsection (3) of
 679 section 27.711, Florida Statutes, is amended to read:

680 27.711 Terms and conditions of appointment of attorneys as
 681 counsel in postconviction capital collateral proceedings.—

682 (3) An attorney appointed to represent a capital defendant
 683 is entitled to payment of the fees set forth in this section
 684 only upon full performance by the attorney of the duties
 685 specified in this section and approval of payment by the trial
 686 court, and the submission of a payment request by the attorney,
 687 subject to the availability of sufficient funding specifically
 688 appropriated for this purpose. ~~An attorney may not be~~
 689 ~~compensated under this section for work performed by the~~
 690 ~~attorney before July 1, 2003, while employed by the northern~~
 691 ~~regional office of the capital collateral counsel.~~ The Chief
 692 Financial Officer shall notify the executive director and the
 693 court if it appears that sufficient funding has not been
 694 specifically appropriated for this purpose to pay any fees which
 695 may be incurred. The attorney shall maintain appropriate
 696 documentation, including a current and detailed hourly
 697 accounting of time spent representing the capital defendant. The
 698 fee and payment schedule in this section is the exclusive means
 699 of compensating a court-appointed attorney who represents a

700 capital defendant. When appropriate, a court-appointed attorney
 701 must seek further compensation from the Federal Government, as
 702 provided in 18 U.S.C. s. 3006A or other federal law, in habeas
 703 corpus litigation in the federal courts.

704 Section 17. Paragraph (b) of subsection (4) of section
 705 27.711, Florida Statutes, is amended to read:

706 27.711 Terms and conditions of appointment of attorneys as
 707 counsel in postconviction capital collateral proceedings.-

708 (4) Upon approval by the trial court, an attorney
 709 appointed to represent a capital defendant under s. 27.710 is
 710 entitled to payment of the following fees by the Chief Financial
 711 Officer:

712 (b) The attorney is entitled to \$100 per hour, up to a
 713 maximum of \$20,000, after timely filing in the trial court the
 714 capital defendant's complete original motion for postconviction
 715 relief ~~under the Florida Rules of Criminal Procedure~~. The motion
 716 must raise all issues to be addressed by the trial court.

717 However, an attorney is entitled to fees under this paragraph if
 718 the court schedules a hearing on a matter that makes the filing
 719 of the original motion for postconviction relief unnecessary or
 720 if the court otherwise disposes of the case.

721
 722 The hours billed by a contracting attorney under this subsection
 723 may include time devoted to representation of the defendant by
 724 another attorney who is qualified under s. 27.710 and who has
 725 been designated by the contracting attorney to assist him or
 726 her.

727 Section 18. Section 922.095, Florida Statutes, is amended

728 to read:

729 922.095 Grounds for death warrant; limitations of
 730 actions.—A person who is convicted and sentenced to death must
 731 pursue all possible collateral remedies within the time limits
 732 provided by statute. Failure to seek relief within the statutory
 733 time limits constitutes grounds for issuance of a death warrant
 734 under s. 922.052 or s. 922.14. Any postconviction claim not
 735 pursued within the statutory time limits is barred. No
 736 postconviction claim filed after the time required by law shall
 737 be grounds for a judicial stay of any warrant.

738 Section 19. Section 922.108, Florida Statutes, is
 739 reenacted to read:

740 922.108 Sentencing orders in capital cases.—The sentence
 741 of death must not specify any particular method of execution.
 742 The wording or form of the sentencing order shall not be grounds
 743 for reversal of any sentence.

744 Section 20. Section 924.055, Florida Statutes, is amended
 745 to read:

746 924.055 Postconviction review in capital cases;
 747 legislative findings and intent.—

748 (1) It is the intent of the Legislature to reduce delays
 749 in capital cases and to ensure that all ~~appeals and~~
 750 postconviction actions in capital cases are resolved as quickly
 751 as possible ~~within 5 years~~ after the date a sentence of death is
 752 imposed in the circuit court. ~~All capital postconviction actions~~
 753 ~~must be filed as early as possible after the imposition of a~~
 754 ~~sentence of death which may be during a direct appeal of the~~
 755 ~~conviction and sentence.~~ A person sentenced to death or that

756 person's capital postconviction counsel must file any
757 postconviction ~~legal~~ action in compliance with the timeframes
758 ~~statutes of limitation~~ established in s. 924.056, s. 924.058,
759 and elsewhere in this chapter. Except as expressly allowed by s.
760 924.058 ~~s. 924.056(5)~~, a person sentenced to death or that
761 person's capital postconviction counsel may not file more than
762 one postconviction action in a sentencing court and one appeal
763 therefrom to the Florida Supreme Court, unless authorized by
764 law.

765 (2) It is the further intent of the Legislature that no
766 state resources be expended in violation of this act. In the
767 event that any state employee or party contracting with the
768 state violates the provisions of this act, the Attorney General
769 shall deliver to the Speaker of the House of Representatives and
770 the President of the Senate a copy of any court pleading or
771 order that describes or adjudicates a violation.

772 Section 21. Section 924.056, Florida Statutes, is amended
773 to read:

774 (Substantial rewording of section. See s. 924.056, F.S., for
775 present text.)

776 924.056 Capital postconviction proceedings.— This section
777 governs all postconviction proceedings in every capital case in
778 which the conviction and sentence of death have been affirmed on
779 direct appeal on or after July 1, 2015.

780 (1) APPOINTMENT OF POSTCONVICTION COUNSEL

781 (a) Upon the issuance of the mandate affirming a judgment
782 and sentence of death on direct appeal, the Supreme Court of
783 Florida shall at the same time issue an order appointing the

784 appropriate office of the Capital Collateral Regional Counsel.

785 (b) Within 30 days of being appointed, the regional counsel
786 shall file a notice of appearance in the trial court or a motion
787 to withdraw based on an actual conflict of interest or some
788 other legal ground. Motions to withdraw filed more than 30 days
789 after being appointed shall not be entertained unless based on
790 an actual conflict of interest.

791 (c) The court shall conduct a hearing in accordance with s.
792 924.059 if the regional counsel's motion to withdraw is based on
793 an actual conflict. If the regional counsel files a motion to
794 withdraw based on any other legal ground, the chief judge or
795 assigned judge shall rule on the motion within 15 days of the
796 filling of the motion. If the court determines that new
797 postconviction counsel should be appointed, the court shall
798 appoint another regional counsel and, only if a conflict exists
799 with the replacement regional counsel, appoint new
800 postconviction counsel from the statewide registry of attorneys
801 compiled and maintained by the Justice Administrative Commission
802 pursuant to s. 27.710.

803 (d) If the defendant requests without good cause that any
804 attorney appointed under this subsection be removed or replaced,
805 the court shall notify the defendant that no further state
806 resources may be expended for postconviction representation for
807 that defendant, unless the defendant withdraws the request to
808 remove or replace postconviction counsel. If the defendant does
809 not withdraw his or her request, then any appointed attorney
810 must be removed from the case and no further state resources may
811 be expended for the defendant's postconviction representation.

812 (2) PRELIMINARY PROCEDURES

813 (a) Within 30 days of the issuance of mandate affirming a
814 judgment and sentence of death on direct appeal, the chief judge
815 shall assign the case to a judge qualified under the Rules of
816 Judicial Administration to conduct capital proceedings.

817 (b) The assigned judge shall conduct a status conference no
818 later than 90 days after the judicial assignment, and shall hold
819 status conferences at least every 90 days thereafter until the
820 evidentiary hearing has been completed or the postconviction
821 motion has been ruled on without a hearing. The attorneys, with
822 leave of the trial court, may, with leave of the court, appear
823 electronically at the status conferences. Requests to appear
824 electronically shall be liberally granted. Pending motions,
825 disputes involving public records, or any other matters ordered
826 by the court shall be heard at the status conferences. The
827 inmate's presence is not required at status conferences held
828 pursuant to this paragraph.

829 (c) Within 45 days of appointment of postconviction
830 counsel, the defendant's trial counsel shall provide to
831 postconviction counsel all information pertaining to the
832 defendant's capital case which was obtained during the
833 representation of the defendant. Postconviction counsel shall
834 maintain the confidentiality of all confidential information
835 received.

836 (3) TIME LIMITATIONS ON FILING A POSTCONVICTION MOTION

837 (a) Any postconviction motion must be filed by the inmate
838 within one year after the judgment and sentence become final.
839 For the purposes of this subsection, a judgment is final:

840 1. Upon the expiration of the time permitted to file in the
841 United States Supreme Court a petition for writ of certiorari
842 seeking review of the Supreme Court of Florida decision
843 affirming a judgment and sentence of death; or

844 2. Upon the disposition of the petition for writ of
845 certiorari by the United States Supreme Court, if filed.

846 (b) No postconviction motion shall be filed or considered
847 pursuant to this subsection if filed beyond the time limitation
848 provided in paragraph (a) unless it alleges:

849 1. The facts on which the motion is predicated were unknown
850 to the movant or the movant's attorney and could not have been
851 ascertained by the exercise of due diligence;

852 2. The fundamental constitutional right asserted was not
853 established within the period provided for in paragraph (a) and
854 has been held to apply retroactively; or

855 3. Postconviction counsel, through neglect, failed to file
856 the motion.

857 (c) All petitions for extraordinary relief in which the
858 Supreme Court of Florida has original jurisdiction, including
859 petitions for writs of habeas corpus, shall be filed
860 simultaneously with the initial brief filed on behalf of the
861 death-sentenced inmate in the appeal of the circuit court's
862 order on the initial motion for postconviction relief filed
863 under this subsection.

864 (d) The time limitation provided in paragraph (a) is
865 established with the understanding that each inmate sentenced to
866 death will have counsel assigned and available to begin
867 addressing the inmate's postconviction issues within the time

868 specified in this subsection. Should the governor sign a death
869 warrant before the expiration of the time limitation provided in
870 paragraph (a), the Supreme Court of Florida, on a defendant's
871 request, will grant a stay of execution to allow any
872 postconviction relief motions to proceed in a timely manner.

873 (4) CONTENTS OF A POSTCONVICTION MOTION

874 (a) No state court shall consider a postconviction motion
875 unless the motion is fully pled. For the purposes of this
876 subsection, a fully pled postconviction motion is one which
877 complies with paragraph (b). The fully pled postconviction
878 motion must raise all cognizable claims that the defendant's
879 judgment or sentence was entered in violation of the
880 Constitution or laws of the United States or the Constitution or
881 the laws of the state, including any claim of ineffective
882 assistance of trial counsel or direct appeal counsel,
883 allegations of innocence, or that the state withheld evidence
884 favorable to the defendant.

885 (b) The defendant's postconviction motion shall be filed
886 under oath and shall be fully pled to include:

887 1. The judgment or sentence under attack and the court
888 which rendered the same;

889 2. A statement of each issue raised on appeal and the
890 disposition thereof;

891 3. Whether a previous postconviction motion has been filed
892 and, if so, the disposition of all previous claims raised in
893 postconviction litigation; if a previous motion or motions have
894 been filed, the reason or reasons the claim or claims in the
895 present motion were not raised in the former motion or motions;

896 4. The nature of the relief sought;
 897 5. A fully detailed allegation of the factual basis for
 898 any claim for which an evidentiary hearing is sought, including
 899 the attachment of any document supporting the claim, the name
 900 and address of any witness, the attachment of affidavits of the
 901 witnesses or a proffer of the testimony;
 902 6. A fully detailed allegation as to the basis for any
 903 purely legal or constitutional claim for which an evidentiary
 904 hearing is not required and the reason that this claim could not
 905 have been or was not raised on direct appeal; and
 906 7. A concise memorandum of applicable case law as to each
 907 claim asserted.
 908 (c) A postconviction motion and memorandum of law filed
 909 under this subsection shall not exceed 75 pages exclusive of the
 910 attachments. Attachments shall include, but are not limited to,
 911 the judgment and sentence. The memorandum of law shall set forth
 912 the applicable case law supporting the granting of relief as to
 913 each separately pled claim.
 914 (d) Claims raised in a postconviction motion that could
 915 have or should have been raised at trial and, if properly
 916 preserved, on direct appeal of the judgment and sentence, are
 917 barred.
 918 (e) A postconviction motion may not include a claim of
 919 ineffective assistance of collateral postconviction counsel.
 920 (f) A postconviction motion may not be amended without
 921 court approval. In no instance shall such motion be amended
 922 beyond the time limitations provided by subsection (3) for the
 923 filing of a postconviction motion. If amendment is allowed, the

924 state shall file an amended answer within 20 days after the
925 amended motion is filed.

926 (g) Any postconviction motion that does not comply with any
927 requirement in this subsection shall not be considered in any
928 state court.

929 (5) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION

930 (a) All pleadings in a postconviction proceeding shall be
931 filed with the clerk of the trial court and served on the
932 assigned judge, opposing party, and the attorney general. The
933 clerk shall immediately deliver to the chief judge or the
934 assigned judge any motion filed in a postconviction proceeding
935 along with the court file.

936 (b) If the defendant intends to offer expert testimony of
937 his or her mental status in a postconviction proceeding, the
938 state shall be entitled to have the defendant examined by its
939 own mental health expert. If the defendant fails to cooperate
940 with the state's expert, the trial court may, in its discretion,
941 proceed as provided in rule 3.202(e) of the Florida Rules of
942 Criminal Procedure. Reports provided to either party by an
943 expert witness shall be disclosed to opposing counsel upon
944 receipt.

945 (c) The state shall file its answer within 60 days of the
946 filing of an initial postconviction motion. The answer and
947 accompanying memorandum of law shall not exceed 75 pages,
948 exclusive of attachments and exhibits. The answer shall address
949 the legal sufficiency of any claim in the motion, respond to the
950 allegations of the motion, address any procedural bars, and
951 state the reasons that an evidentiary hearing is or is not

952 required. As to any claims of legal insufficiency or procedural
953 bar, the state shall include a short statement of any applicable
954 case law.

955 (d) No later than 30 days after the state files its answer
956 to an initial motion, the trial court shall hold a case
957 management conference. At the case management conference, both
958 parties shall disclose all documentary exhibits that they intend
959 to offer at the evidentiary hearing, provide an exhibit list of
960 all such exhibits, and exchange a witness list with the names
961 and addresses of any potential witnesses. All expert witnesses
962 shall be specifically designated on the witness list, and copies
963 of all expert reports shall be attached. At the case management
964 conference, the trial court shall:

965 1. Schedule an evidentiary hearing, to be held within 90
966 days, on claims listed by the defendant as requiring a factual
967 determination;

968 2. Hear argument on any purely legal claims not based of
969 disputed facts; and

970 3. Resolve disputes arising from the exchange of
971 information under this paragraph.

972 (e) If the court determines that an evidentiary hearing is
973 not necessary and that the defendant's postconviction motion is
974 legally insufficient or that the motion, files, and records in
975 the case show that the defendant is not entitled to relief, the
976 court shall, within 30 days of the conclusion of the case
977 management conference, deny the motion, setting forth a detailed
978 rationale therefore, and attaching or referencing such portions
979 of the record as are necessary to allow for meaningful appellate

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980 review.

981 (f) Immediately following an evidentiary hearing, the trial
982 court shall order a transcript of the hearing which shall be
983 filed within 30 days. Within 30 days of receipt of the
984 transcript, the court shall render its order, ruling on each
985 claim considered at the evidentiary hearing and all other claims
986 raised in the postconviction motion, making detailed findings of
987 fact and conclusions of law with respect to each claim, and
988 attaching or referencing such portions of the record as are
989 necessary to allow for meaningful appellate review. The order
990 issued after the evidentiary hearing shall resolve all the
991 claims raised in the postconviction motion and shall be
992 considered the final order for purposes of appeal. The clerk of
993 the trial court shall promptly serve upon the parties and the
994 attorney general a copy of the final order, with a certificate
995 of service.

996 (g) Motions for rehearing shall be filed within 15 days of
997 the rendition of the trial court's order and a response thereto
998 filed within 10 days thereafter. The trial court's order
999 disposing of the motion for rehearing shall be rendered no later
1000 than 15 days after the response is filed.

1001 (h) An appeal may be taken by filing a notice to appeal
1002 with the Florida Supreme Court within 15 days of the entry of a
1003 final order on a capital postconviction motion. No interlocutory
1004 appeal shall be permitted.

1005 Section 22. Section 924.057, Florida Statutes, is amended
1006 to read:

1007 924.057 ~~Limitation on~~ Capital postconviction proceedings

1008 in cases in which the conviction and sentence of death were
 1009 affirmed on direct appeal before July 1, 2015. ~~January 14,~~
 1010 ~~2000. This section shall govern all capital postconviction~~
 1011 ~~actions in cases in which the trial court imposed the sentence~~
 1012 ~~of death before the effective date of this act.~~

1013 (1) Nothing in this act shall expand any right or time
 1014 period allowed for the prosecution of capital postconviction
 1015 claims in any case in which a postconviction action was
 1016 commenced or should have been commenced prior to the effective
 1017 date of this act.

1018 (2) Postconviction proceedings in every capital case in
 1019 which the conviction and sentence of death have been affirmed on
 1020 direct appeal before July 1, 2015, shall be governed by the
 1021 rules and laws in effect immediately prior to the effective date
 1022 of this act.

1023 ~~(2) Except as provided in s. 924.056(5), in every case in~~
 1024 ~~which mandate has issued in the Florida Supreme Court concluding~~
 1025 ~~at least one capital postconviction action in the state court~~
 1026 ~~system, a successive capital postconviction action shall be~~
 1027 ~~barred on the effective date of this act, unless the rules or~~
 1028 ~~law in effect immediately prior to the effective date of this~~
 1029 ~~act permitted the successive postconviction action, in which~~
 1030 ~~case the action shall be barred on the date provided in~~
 1031 ~~subsection (4).~~

1032 ~~(3) All capital postconviction actions pending on the~~
 1033 ~~effective date of this act shall be barred, and shall be~~
 1034 ~~dismissed with prejudice, unless fully pled in substantial~~
 1035 ~~compliance with s. 924.058, or with any superseding order or~~

1036 ~~rule, on or before:~~

1037 ~~(a) The time in which the action would be barred by this~~
 1038 ~~section if the action had not begun prior to the effective date~~
 1039 ~~of this act, or~~

1040 ~~(b) Any earlier date provided by the rules or law, or~~
 1041 ~~court order, in effect immediately prior to the effective date~~
 1042 ~~of this act.~~

1043 ~~(4) In every capital case in which the trial court imposed~~
 1044 ~~the sentence of death before the effective date of this act, a~~
 1045 ~~capital postconviction action shall be barred unless it is~~
 1046 ~~commenced on or before January 8, 2001, or any earlier date~~
 1047 ~~provided by the rule or law in effect immediately prior to the~~
 1048 ~~effective date of this act.~~

1049 Section 23. Section 924.058, Florida Statutes, is amended
 1050 to read:

1051 (Substantial rewording of section. See s. 924.058, F.S., for
 1052 present text.)

1053 924.058 Successive postconviction motions.— This section
 1054 governs successive postconviction motions in all postconviction
 1055 proceedings in every capital case in which the conviction and
 1056 sentence of death have been affirmed on direct appeal on or
 1057 after July 1, 2015. A postconviction motion is successive if a
 1058 state court has previously ruled on a postconviction motion
 1059 challenging the same judgment and sentence.

1060 (1) TIME LIMITATIONS ON FILING A SUCCESSIVE POSTCONVICTION
 1061 MOTION

1062 (a) A successive postconviction motion is barred unless
 1063 commenced by filing a fully pled successive postconviction

1064 motion within 90 days:

1065 1. After the facts giving rise to the claim were discovered

1066 or should have been discovered with the exercise of due

1067 diligence; or

1068 2. After the fundamental constitutional right asserted was

1069 established and held to apply retroactively.

1070 (b) No successive postconviction motion shall be filed or

1071 considered pursuant to this subsection if filed beyond the time

1072 limitation provided in paragraph (a) unless it alleges that

1073 postconviction counsel, through neglect, failed to file the

1074 motion.

1075 (2) CONTENTS OF A SUCCESSIVE POSTCONVICTION MOTION

1076 (a) No state court shall consider a successive

1077 postconviction motion unless the motion is fully pled. For the

1078 purposes of this subsection, a fully pled successive

1079 postconviction motion includes:

1080 1. All of the pleading requirements of an initial

1081 postconviction motion under s. 924.056;

1082 2. The disposition of all previous claims raised in

1083 postconviction proceedings and the reason or reasons the claim

1084 or claims raised in the present motion were not raised in the

1085 former motion or motions;

1086 3. If based upon newly discovered evidence, Brady v.

1087 Maryland, 373 U.S. 83 (1963), or Giglio v. United States, 405

1088 U.S. 150 (1972), the following:

1089 a. The names, addresses, and telephone numbers of all

1090 witnesses supporting the claim;

1091 b. A statement that the witness will be available, should

1092 an evidentiary hearing be scheduled, to testify under oath to
 1093 the facts alleged in the motion or affidavit;

1094 c. If evidentiary support is in the form of documents,
 1095 copies of all documents shall be attached, including any
 1096 affidavits obtained; and

1097 d. As to any witness or document listed in the motion or
 1098 attachment to the motion, a statement of the reason why the
 1099 witness or document was not previously available.

1100 (b) A successive postconviction motion and memorandum of
 1101 law filed under this subsection shall not exceed 25 pages
 1102 exclusive of the attachments. Attachments shall include, but are
 1103 not limited to, the judgment and sentence. The memorandum of law
 1104 shall set forth the applicable case law supporting the granting
 1105 of relief as to each separately pled claim.

1106 (c) Claims raised in a successive postconviction motion
 1107 that could have or should have been raised at trial, on direct
 1108 appeal of the judgment and sentence, if properly preserved, and
 1109 in the initial postconviction motion, are barred.

1110 (d) A successive postconviction motion may not include a
 1111 claim of ineffective assistance of collateral postconviction
 1112 counsel.

1113 (e) A successive postconviction motion may not be amended
 1114 without court approval. In no instance shall such motion be
 1115 amended beyond the time limitations provided by subsection (1)
 1116 for the filing of a successive postconviction motion. If
 1117 amendment is allowed, the state shall file an amended answer
 1118 within 20 days after the amended motion is filed.

1119 (f) Any successive postconviction motion that does not

1120 comply with any requirement in this subsection shall not be
1121 considered in any state court.

1122 (3) PROCEDURE; EVIDENTIARY HEARING; DISPOSITION

1123 (a) If the defendant intends to offer expert testimony of
1124 his or her mental status in a successive postconviction motion
1125 proceeding, the state shall be entitled to have the defendant
1126 examined by its own mental health expert. If the defendant fails
1127 to cooperate with the state's expert, the trial court may, in
1128 its discretion, proceed as provided in rule 3.202(e) of the
1129 Florida Rules of Criminal Procedure. Reports provided to either
1130 party by an expert witness shall be disclosed to opposing
1131 counsel upon receipt.

1132 (b) The state shall file its answer within 20 days of the
1133 filing of a successive postconviction motion. The answer shall
1134 not exceed 25 pages, exclusive of attachments and exhibits. The
1135 answer shall address the legal sufficiency of any claim in the
1136 motion, respond to the allegations of the motion, address any
1137 procedural bars, and state the reasons that an evidentiary
1138 hearing is or is not required. As to any claims of legal
1139 insufficiency or procedural bar, the answer shall include a
1140 short statement of any applicable case law.

1141 (c) No later than 30 days after the state files its answer
1142 to a successive postconviction motion, the trial court shall
1143 hold a case management conference. At the case management
1144 conference, both parties shall disclose all documentary exhibits
1145 that they intend to offer at the evidentiary hearing, provide an
1146 exhibit list of all such exhibits, and exchange a witness list
1147 with the names and addresses of any potential witnesses. All

1148 expert witnesses shall be specifically designated on the witness
 1149 list, and copies of all expert reports shall be attached. At the
 1150 case management conference, the trial court shall:

1151 1. Schedule an evidentiary hearing, to be held within 90
 1152 days, on claims listed by the defendant as requiring a factual
 1153 determination;

1154 2. Hear argument on any purely legal claims not based of
 1155 disputed facts; and

1156 3. Resolve disputes arising from the exchange of
 1157 information under this paragraph.

1158 (d) If the court determines that an evidentiary hearing is
 1159 not necessary and that the defendant's successive postconviction
 1160 motion is legally insufficient or that the motion, files, and
 1161 records in the case show that the defendant is not entitled to
 1162 relief, the court shall, within 30 days of the conclusion of the
 1163 case management conference, deny the motion, setting forth a
 1164 detailed rationale therefore, and attaching or referencing such
 1165 portions of the record as are necessary to allow for meaningful
 1166 appellate review.

1167 (e) Immediately following an evidentiary hearing, the trial
 1168 court shall order a transcript of the hearing which shall be
 1169 filed within 30 days. Within 30 days of receipt of the
 1170 transcript, the court shall render its order, ruling on each
 1171 claim considered at the evidentiary hearing and all other claims
 1172 raised in the successive postconviction motion, making detailed
 1173 findings of fact and conclusions of law with respect to each
 1174 claim, and attaching or referencing such portions of the record
 1175 as are necessary to allow for meaningful appellate review. The

1176 order issued after the evidentiary hearing shall resolve all the
 1177 claims raised in the successive postconviction motion and shall
 1178 be considered the final order for purposes of appeal. The clerk
 1179 of the trial court shall promptly serve upon the parties and the
 1180 attorney general a copy of the final order, with a certificate
 1181 of service.

1182 (f) Motions for rehearing shall be filed within 15 days of
 1183 the rendition of the trial court's order and a response thereto
 1184 filed within 10 days thereafter. The trial court's order
 1185 disposing of the motion for rehearing shall be rendered no later
 1186 than 15 days after the response is filed.

1187 (g) An appeal may be taken by filing a notice to appeal
 1188 with the Florida Supreme Court within 15 days of the entry of a
 1189 final order on a capital postconviction motion. No interlocutory
 1190 appeal shall be permitted.

1191 Section 24. Section 924.0581, Florida Statutes, is created
 1192 to read:

1193 924.0581 Capital postconviction appeals to the Florida
 1194 Supreme Court.—This section governs capital postconviction
 1195 appeals to the Florida Supreme Court in every capital case in
 1196 which the conviction and sentence of death have been affirmed on
 1197 direct appeal on or after July 1, 2015.

1198 (1) INITIAL AND SUCCESSIVE POSTCONVICTION MOTION APPEALS

1199 (a) When the notice of appeal is filed in the Florida
 1200 Supreme Court, the chief justice shall direct the appropriate
 1201 chief judge of the circuit court to monitor the preparation of
 1202 the complete record for timely filing in the Florida Supreme
 1203 Court.

1204 (b) The complete record in a death penalty appeal shall
1205 include transcripts of all proceedings conducted in the lower
1206 court, all items required by rule 9.200 of the Florida Rules of
1207 Appellate Procedure, and any item listed in any order issued by
1208 the Florida Supreme Court. The record shall begin with the most
1209 recent mandate issued by the Florida Supreme Court; or, in the
1210 event the preceding appeal was disposed of without a mandate,
1211 the most recent filing not already transmitted to the Florida
1212 Supreme Court in a prior record. The record shall exclude any
1213 materials already transmitted to the Florida Supreme Court as
1214 the record in any prior appeal.

1215 (c) The Florida Supreme Court shall take judicial notice of
1216 the appellate records in all prior appeals and writ proceedings
1217 involving a challenge to the same judgment of conviction and
1218 sentence of death. Appellate records subject to judicial notice
1219 under section shall not be duplicated in the record transmitted
1220 for the appeal under review.

1221 (d) If the sentencing court has denied the initial or
1222 successive postconviction motion without an evidentiary hearing,
1223 the Florida Supreme Court shall initially review the case to
1224 determine whether the trial court correctly resolved the
1225 defendant's claims without an evidentiary hearing. If the
1226 Florida Supreme Court determines an evidentiary hearing should
1227 have been held, the court may remand the case for an evidentiary
1228 hearing. Jurisdiction shall be relinquished to the trial court
1229 for the purpose of conducting an evidentiary hearing on any
1230 issues identified in the Florida Supreme Court's order. The
1231 trial court must schedule an evidentiary hearing within 30 days

1232 of the Florida Supreme Court's order and conclude the hearing
 1233 within 90 days of scheduling. Upon conclusion of the
 1234 evidentiary hearing, the record shall be supplemented with the
 1235 hearing transcript.

1236 (e) The defendant has 30 days from the date the record is
 1237 filed to file an initial brief. The answer brief must be filed
 1238 within 20 days after filing of the initial brief. The reply
 1239 brief, if any, must be filed within 20 days after filing of the
 1240 answer brief. The cross-reply brief, if any, shall be filed
 1241 within 20 days thereafter. A brief submitted after these time
 1242 periods is barred and shall not be heard.

1243 (f) Oral arguments shall be scheduled within 30 days after
 1244 the filing of the defendant's replay brief.

1245 (g)1. The Florida Supreme Court shall render its decision
 1246 within 180 days after oral arguments have concluded. If a denial
 1247 of an action for postconviction relief is affirmed, the Governor
 1248 may proceed to issue a warrant for execution.

1249 2. In instances where the Florida Supreme Court does not
 1250 comply with subparagraph 1., the Chief Justice of the Florida
 1251 Supreme Court shall, within 10 days after the expiration of the
 1252 180 day deadline, submit a report to the Speaker of the Florida
 1253 House of Representatives and the President of the Florida Senate
 1254 explaining why a decision was not timely rendered. The Chief
 1255 Justice shall submit a report to the Speaker of the Florida
 1256 House of Representatives and the President of the Florida Senate
 1257 every thirty days thereafter in which a decision is not rendered
 1258 explaining the reasons therefore.

1259 (2) PETITIONS FOR EXTRAORDINARY RELIEF

1260 (a) Review proceedings under this subsection shall be
 1261 treated as original proceedings under rule 9.100 of the Rules of
 1262 Appellate Procedure, except as otherwise provided in this
 1263 subsection.

1264 (b) A petition for extraordinary relief shall be in the
 1265 form prescribed by rule 9.100 of the Rules of Appellate
 1266 Procedure, may include supporting documents, and shall recite in
 1267 the statement of facts:

1268 1. The date and nature of the lower tribunal's order sought
 1269 to be reviewed;

1270 2. The name of the lower tribunal rendering the order;

1271 3. The nature, disposition, and dates of all previous court
 1272 proceedings;

1273 4. if a previous petition was filed, the reason the claim
 1274 in the present petition was not raised previously; and

1275 5. The nature of the relief sought.

1276 (c) 1. A petition for belated appeal shall include a
 1277 detailed allegation of the specific acts sworn to by the
 1278 petitioner or petitioner's counsel that constitute the basis for
 1279 entitlement to belated appeal, including whether petitioner
 1280 requested counsel to proceed with the appeal and the date of any
 1281 such request, whether counsel misadvised the petitioner as to
 1282 the availability of appellate review or the filing of the notice
 1283 of appeal, or whether there were circumstances unrelated to
 1284 counsel's action or inaction, including names of individuals
 1285 involved and dates of the occurrences, that were beyond the
 1286 petitioner's control and otherwise interfered with the
 1287 petitioner's ability to file a timely appeal.

1288 2. A petition for belated appeal shall not be filed more
 1289 than 1 year after the expiration of time for filing the notice
 1290 of appeal from a final order denying relief pursuant to s.
 1291 924.056 or s. 924.058, unless it alleges under oath with a
 1292 specific factual basis that the petitioner:

1293 a. Was unaware an appeal had not been timely filed, was not
 1294 advised of the right to an appeal, was misadvised as to the
 1295 rights to an appeal, or was prevented from timely filing a
 1296 notice of appeal due to circumstances beyond the petitioner's
 1297 control; and

1298 b. Could not have ascertained such facts by the exercise of
 1299 due diligence.

1300 (d) A petition alleging ineffective assistance of appellate
 1301 counsel must include detailed allegations of the specific acts
 1302 that constitute the alleged ineffective assistance of counsel on
 1303 direct appeal and must be filed simultaneously with the initial
 1304 brief in the appeal from the lower tribunal's final order
 1305 denying relief pursuant to s. 924.056 or s. 924.058.

1306 (3) PETITIONS SEEKING RELIEF OF NONFINAL ORDERS IN DEATH
 1307 PENALTY POSTCONVICTION PROCEEDINGS

1308 (a) This subsection applies to proceedings that invoke the
 1309 jurisdiction of the supreme court for review of nonfinal orders
 1310 issued in postconviction proceedings following the imposition of
 1311 the death penalty. Review of such proceedings shall be treated
 1312 as original proceedings under rule 9.100 of the Rules of
 1313 Appellate Procedure, except as otherwise provided in this
 1314 subsection.

1315 (b) Jurisdiction of the Florida Supreme Court shall be

1316 invoked by filing a petition with the clerk of the Florida
 1317 Supreme Court within 30 days of rendition of the nonfinal order
 1318 to be reviewed. A copy of the petition shall be served on the
 1319 opposing party and furnished to the judge who issued the order
 1320 to be reviewed. Either party to the death penalty postconviction
 1321 proceedings may seek review under this subsection.

1322 (c) The petition shall be in the form prescribed by rule
 1323 9.100 of the Rules of Appellate Procedure, and shall contain

- 1324 1. The basis for invoking the jurisdiction of the court;
- 1325 2. The date and nature of the order sought to be reviewed;
- 1326 3. The name of the lower tribunal rendering the order;
- 1327 4. The name, disposition, and dates of all previous trial,

1328 appellate, and postconviction proceedings relating to the
 1329 conviction and death sentence that are the subject of the
 1330 proceedings in which the order sought to be reviewed was
 1331 entered;

1332 5. The facts on which the petitioner relies, with
 1333 references to the appropriate pages of the supporting appendix;

1334 6. Argument in support of the petition, including an
 1335 explanation of why the order departs from the essential
 1336 requirements of law and how the order may cause material injury
 1337 for which there is no adequate remedy on appeal, and appropriate
 1338 citations of authority; and

1339 7. The nature of the relief sought.

1340 (d) The petition shall be accompanied by an appendix, as
 1341 prescribed by rule 9.220 of the Rules of Appellate Proecdure,
 1342 which shall contain the portions of the record necessary for a
 1343 determination of the issues presented.

1344 (e) If the petition demonstrates a preliminary basis for
 1345 relief or a departure from the essential requirements of law
 1346 that may cause material injury for which there is no adequate
 1347 remedy by appeal, the court may issue an order directing the
 1348 respondent to show cause, within the time set by the court, why
 1349 relief should not be granted. No response shall be permitted
 1350 unless ordered by the court. Within 20 days after service of the
 1351 response or such other time set by the court, the petitioner may
 1352 serve a reply, which shall not exceed 15 pages in length, and
 1353 supplemental appendix.

1354 (f) A stay of proceedings under this subsection is not
 1355 automatic. The party seeking a stay must petition the Florida
 1356 Supreme Court for a stay of proceedings. During the pendency of
 1357 a review of a nonfinal order, unless a stay is granted by the
 1358 Florida Supreme Court, the lower tribunal may proceed with all
 1359 matters, except that the lower tribunal may not render a final
 1360 order disposing of the cause pending review of the nonfinal
 1361 order.

1362 (g) The parties may not file any other pleadings, motions,
 1363 replies, or miscellaneous papers without leave of court.

1364 (h) Seeking review under this subsection shall not extend
 1365 the time limitations in s. 924.056, s. 924.058, or s. 27.7081.

1366 Section 25. Effective July 1, 2013, section 924.0585,
 1367 Florida Statutes, is created to read:

1368 924.0585 Capital postconviction proceedings; reporting
 1369 requirements.—

1370 (1) The Florida Supreme Court shall annually report to the
 1371 Speaker of the Florida House of Representatives and the

1372 President of the Florida Senate the status of each capital case
 1373 in which a postconviction action has been filed that has been
 1374 pending for more than three years. The report must include the
 1375 name of the state court judge involved in the case.

1376 (2) In any capital postconviction proceeding in which it
 1377 has been determined that an attorney of record was ineffective,
 1378 the court making such determination shall furnish a copy of the
 1379 findings of ineffectiveness to the Florida Bar for any
 1380 appropriate disciplinary action. The Florida Bar shall submit an
 1381 annual report to the Speaker of the Florida House of
 1382 Representatives and the President of the Florida Senate listing
 1383 the names of attorneys found ineffective, the findings of the
 1384 court, and detailing what disciplinary action, if any, was taken
 1385 by the Florida Bar. If no disciplinary action was taken, the
 1386 report shall specify why no action was taken. An attorney that
 1387 has been deemed ineffective in a capital case is ineligible to
 1388 represent capital case defendants for 5 years.

1389 Section 26. Section 924.0585, Florida Statutes, as created
 1390 by this act, is amended to read:

1391 924.0585 Capital postconviction proceedings; reporting
 1392 requirements.—

1393 (3) A capital postconviction action filed in violation of
 1394 the time limitations provided by statute is barred, and all
 1395 claims raised therein are waived. A state court shall not
 1396 consider any capital postconviction action filed in violation of
 1397 s. 924.056 or s. 924.058. The Attorney General shall deliver to
 1398 the Governor, the President of the Senate, and the Speaker of
 1399 the House of Representatives a copy of any pleading or order

1400 that alleges or adjudicates any violation of this provision.

1401 Section 27. Section 924.059, Florida Statutes, is amended
1402 to read:

1403 (Substantial rewording of section. See s. 924.059, F.S., for
1404 present text.)

1405 924.059 Conflicts of interest in capital postconviction
1406 proceedings.—In any capital postconviction proceeding in which
1407 it is alleged that there is a conflict of interest with
1408 postconviction counsel, the court shall hold a hearing within 30
1409 days of such allegation to determine whether an actual conflict
1410 exists and whether such conflict will adversely affect a
1411 defendant's lawyer's performance. An actual conflict of
1412 interest exists when an attorney actively represents conflicting
1413 interests. To demonstrate an actual conflict, the defendant must
1414 identify specific evidence suggesting that his or her interests
1415 were or may be compromised. A possible, speculative, or merely
1416 hypothetical conflict is insufficient to support an allegation
1417 that a conflict of interest exists. The court must rule within
1418 10 days of the conclusion of the hearing.

1419 Section 28. Section 924.0591, Florida Statutes, is created
1420 to read:

1421 924.0591 Incompetence to proceed in capital postconviction
1422 proceedings.—

1423 (1) A death-sentenced inmate pursuing collateral relief who
1424 is found by the court to be mentally incompetent shall not be
1425 proceeded against if there are factual matters at issue, the
1426 development or resolution of which require the inmate's input.
1427 However, all collateral relief issues that involve only matters

1428 of record and claims that do not require the inmate's input
 1429 shall proceed in collateral proceedings notwithstanding the
 1430 inmate's incompetency.

1431 (2) If, at any stage of a postconviction proceeding, the
 1432 court determines that there are reasonable grounds to believe
 1433 that a death-sentenced inmate is incompetent to proceed and that
 1434 factual matters are at issue, the development or resolution of
 1435 which require the inmate's input, a judicial determination of
 1436 incompetency is required.

1437 (3) Collateral counsel may file a motion for competency
 1438 determination and an accompanying certificate of counsel that
 1439 the motion is made in good faith and on reasonable grounds to
 1440 believe that the death-sentenced inmate is incompetent to
 1441 proceed. The motion and certificate shall replace the signed
 1442 oath by the inmate that otherwise must accompany a
 1443 postconviction motion filed under s. 924.056 and s. 924.058.

1444 (4) The motion for competency examination shall be in
 1445 writing and shall allege with specificity the factual matters at
 1446 issue and the reason that a competency consultation with the
 1447 inmate is necessary with respect to each factual matter
 1448 specified. To the extent that it does not invade the lawyer-
 1449 client privilege with collateral counsel, the motion shall
 1450 contain a recital of the specific observations of, and
 1451 conversations with, the death-sentenced inmate that have formed
 1452 the basis of the motion.

1453 (5) If the court finds that there are reasonable grounds to
 1454 believe that a death-sentenced inmate is incompetent to proceed
 1455 in a postconviction proceeding in which factual matters are at

1456 issue, the development or resolution of which require the
1457 inmate's input, the court shall order the inmate examined by no
1458 more than 3, nor fewer than 2, experts before setting the matter
1459 for a hearing. The court may seek input from the death-sentenced
1460 inmate's counsel and the state attorney before appointment of
1461 the experts.

1462 (6) The order appointing experts shall:

1463 (a) Identify the purpose of the evaluation and specify the
1464 area of inquiry that should be addressed;

1465 (b) Specify the legal criteria to be applied; and

1466 (c) Specify the date by which the report shall be submitted
1467 and to whom it shall be submitted.

1468 (7) Counsel for both the death-sentenced inmate and the
1469 state may be present at the examination, which shall be
1470 conducted at a date and time convenient for all parties and the
1471 Department of Corrections.

1472 (8) On appointment by the court, the experts shall examine
1473 the death-sentenced inmate with respect to the issue of
1474 competence to proceed, as specified by the court in its order
1475 appointing the experts to evaluate the inmate, and shall
1476 evaluate the inmate as ordered.

1477 (a) The experts first shall consider factors related to the
1478 issue of whether the death-sentenced inmate meets the criteria
1479 for competence to proceed, that is, whether the inmate has
1480 sufficient present ability to consult with counsel with a
1481 reasonable degree of rational understanding and whether the
1482 inmate has a rational as well as factual understanding of the
1483 pending collateral proceedings.

1484 (b) In considering the issue of competence to proceed, the
 1485 experts shall consider and include in their report:
 1486 1. The inmate's capacity to understand the adversary nature
 1487 of the legal process and the collateral proceedings;
 1488 2. The inmate's ability to disclose to collateral counsel
 1489 facts pertinent to the postconviction proceeding at issue; and
 1490 3. Any other factors considered relevant by the experts and
 1491 the court as specified in the order appointing the experts.
 1492 (c) Any written report submitted by an expert shall:
 1493 1. Identify the specific matters referred for evaluation;
 1494 2. Describe the evaluative procedures, techniques, and
 1495 tests used in the examination and the purpose or purposes for
 1496 each;
 1497 3. State the expert's clinical observations, findings, and
 1498 opinions on each issue referred by the court for evaluation, and
 1499 indicate specifically those issues, if any, on which the expert
 1500 could not give an opinion; and
 1501 4. Identify the sources of information used by the expert
 1502 and present the factual basis for the expert's clinical findings
 1503 and opinions.
 1504 (9) If the experts find that the death-sentenced inmate is
 1505 incompetent to proceed, the experts shall report on any
 1506 recommended treatment for the inmate to attain competence to
 1507 proceed. In considering the issues relating to treatment, the
 1508 experts shall report on:
 1509 (a) The mental illness or mental retardation causing the
 1510 incompetence;
 1511 (b) The treatment or treatments appropriate for the mental

1512 illness or mental retardation of the inmate and an explanation
1513 of each of the possible treatment alternatives in order of
1514 choices; and

1515 (c) The likelihood of the inmate attaining competence under
1516 the treatment recommended, an assessment of the probable
1517 duration of the treatment required to restore competence, and
1518 the probability that the inmate will attain competence to
1519 proceed in the foreseeable future.

1520 (10) Within 30 days after the experts have completed their
1521 examinations of the death-sentenced inmate, the court shall
1522 schedule a hearing on the issue of the inmate's competence to
1523 proceed.

1524 (11) If, after a hearing, the court finds the inmate
1525 competent to proceed, or, after having found the inmate
1526 incompetent, finds that competency has been restored, the court
1527 shall enter its order so finding and shall proceed with a
1528 postconviction motion. The inmate shall have 60 days to amend
1529 his or her postconviction motion only as to those issues that
1530 the court found required factual consultation with counsel.

1531 (12) If the court does not find the inmate incompetent, the
1532 order shall contain:

1533 (a) Findings of fact relating to the issues of competency;

1534 (b) Copies of the reports of the examining experts; and

1535 (c) Copies of any other psychiatric, psychological, or
1536 social work reports submitted to the court relative to the
1537 mental state of the death-sentenced inmate.

1538 (13) If the court finds the inmate incompetent or finds the
1539 inmate competent subject to the continuation of appropriate

1540 treatment, the court shall follow the procedures set forth in
 1541 rule 3.212(c) of the Florida Rules of Criminal Procedure, except
 1542 that, to the extent practicable, any treatment shall take place
 1543 at a custodial facility under the direct supervision of the
 1544 Department of Corrections.

1545 Section 29. Section 924.0592, Florida Statutes, is created
 1546 to read:

1547 924.0592 Capital postconviction proceedings after a death
 1548 warrant has been issued.--This section governs all
 1549 postconviction proceedings in every capital case in which the
 1550 conviction and sentence of death have been affirmed on direct
 1551 appeal on or after July 1, 2015, and in which a death warrant
 1552 has been issued.

1553 (1) Upon issuance of a death warrant pursuant to s. 922.052
 1554 or s. 922.14, the issuing entity shall notify the chief judge of
 1555 the circuit that sentenced the inmate to death. The chief judge
 1556 shall assign the case to a judge qualified under the Rules of
 1557 Judicial Administration to conduct capital cases immediately
 1558 upon receipt of such notification.

1559 (2) Postconviction proceedings after a death warrant has
 1560 been issued shall take precedence over all other cases. The
 1561 assigned judge shall make every effort to resolve scheduling
 1562 conflicts with other cases including cancellation or
 1563 rescheduling of hearings or trials and requesting senior judge
 1564 assistance.

1565 (3) The time limitations provided in s. 924.056 and s.
 1566 924.058 do not apply after a death warrant has been issued. All
 1567 postconviction motions filed after a death warrant has been

1568 issued shall be heard expeditiously considering the time
1569 limitations set by the date of execution and the time required
1570 for appellate review.

1571 (4) The location of any hearings after a death warrant is
1572 issued shall be determined by the trial judge considering the
1573 availability of witnesses or evidence, the security problems
1574 involved in the case, and any other factor determined by the
1575 trial court.

1576 (5) All postconviction motions filed after a death warrant
1577 is issued shall be considered successive motions and subject to
1578 the content requirement of s. 924.058.

1579 (6) The assigned judge shall schedule a case management
1580 conference as soon as reasonably possible after receiving
1581 notification that a death warrant has been issued. During the
1582 case management conference the court shall set a time for filing
1583 a postconviction motion, shall schedule a hearing to determine
1584 whether an evidentiary hearing should be held, and shall hear
1585 arguments on any purely legal claims not based on disputed
1586 facts. If the postconviction motion, files, and records in the
1587 case conclusively show that the movant is entitled to no relief,
1588 the motion may be denied without an evidentiary hearing. If the
1589 trial court determines that an evidentiary hearing should be
1590 held, the court shall schedule the hearing to be held as soon as
1591 reasonably possible considering the time limitations set by the
1592 date of execution and the time required for appellate review.

1593 (7) The assigned judge shall require all proceedings
1594 conducted pursuant to this section to be reported using the most
1595 advanced and accurate technology available in general use at the

1596 location of the hearing. The proceedings shall be transcribed
 1597 expeditiously considering the time limitations set by the
 1598 execution date.

1599 (8) The court shall obtain a transcript of all proceedings
 1600 conducted pursuant to this section and shall render its order in
 1601 accordance with s. 924.056(5) (e) as soon as possible after the
 1602 hearing is concluded. A copy of the final order shall be
 1603 electronically transmitted to the Supreme Court of Florida and
 1604 to the attorneys of record. The record shall be immediately
 1605 delivered to the clerk of the Supreme Court of Florida by the
 1606 clerk of the trial court or as ordered by the assigned judge.
 1607 The record shall also be electronically transmitted if the
 1608 technology is available. A notice of appeal shall not be
 1609 required to transmit the record.

1610 Section 30. Section 924.0593, Florida Statutes, is created
 1611 to read:

1612 924.0593 Insanity at the time of execution.-

1613 (1) A person under sentence of death shall not be executed
 1614 while insane to be executed. A person under sentence of death is
 1615 insane for purposes of execution if the person lacks the mental
 1616 capacity to understand the fact of the impending execution and
 1617 the reason for it.

1618 (2) No motion for a stay of execution pending hearing,
 1619 based on grounds of the inmate's insanity to be executed, shall
 1620 be entertained by any court until such time as the Governor of
 1621 Florida has held appropriate proceedings for determining the
 1622 issue pursuant to s. 922.07.

1623 (3) (a) On determination of the Governor of Florida,

1624 subsequent to the signing of a death warrant for an inmate under
1625 sentence of death and pursuant to s. 922.07, that the inmate is
1626 sane to be executed, counsel for the inmate may move for a stay
1627 of execution and a hearing based on the inmate's insanity to be
1628 executed. The motion:

1629 1. Shall be filed in the circuit court of the circuit in
1630 which the execution is to take place and shall be heard by one
1631 of the judges of that circuit or such other judge as shall be
1632 assigned by the chief justice of the Florida Supreme Court to
1633 hear the motion. The state attorney of the circuit shall
1634 represent the State of Florida in any proceedings held on the
1635 motion; and

1636 2. Shall be in writing and shall contain a certificate of
1637 counsel that the motion is made in good faith and on reasonable
1638 grounds to believe that the prisoner is insane to be executed.

1639 (b) Counsel for the inmate shall file, along with the
1640 motion, all reports of experts that were submitted to the
1641 governor pursuant to s. 922.07. If any of the evidence is not
1642 available to counsel for the inmate, counsel shall attach to the
1643 motion an affidavit so stating, with an explanation of why the
1644 evidence is unavailable.

1645 (c) Counsel for the inmate and the state may submit such
1646 other evidentiary material and written submissions including
1647 reports of experts on behalf of the inmate that are relevant to
1648 determination of the issue.

1649 (d) A copy of the motion and all supporting documents shall
1650 be served on the Florida Department of Legal Affairs and the
1651 state attorney of the circuit in which the motion has been

1652 filed.

1653 (4) If the circuit judge, upon review of the motion and
1654 submissions, has reasonable grounds to believe that the inmate
1655 is insane to be executed, the judge shall grant a stay of
1656 execution and may order further proceedings which may include a
1657 hearing.

1658 (5) Any hearing on the inmate's insanity to be executed
1659 shall not be a review of the governor's determination, but shall
1660 be a hearing de novo. At the hearing, the issue the court must
1661 determine whether the inmate presently meets the criteria for
1662 insanity at time of execution, that is, whether the prisoner
1663 lacks the mental capacity to understand the fact of the pending
1664 execution and the reason for it.

1665 (6) The court may do any of the following as may be
1666 appropriate and adequate for a just resolution of the issues
1667 raised:

1668 (a) Require the presence of the inmate at the hearing;

1669 (b) Appoint no more than 3 disinterested mental health
1670 experts to examine the inmate with respect to the criteria for
1671 insanity to be executed and to report their findings and
1672 conclusions to the court; or

1673 (c) Enter such other orders as may be appropriate to
1674 effectuate a speedy and just resolution of the issues raised.

1675 (7) At hearings held pursuant to this section, the court
1676 may admit such evidence as the court deems relevant to the
1677 issues, including but not limited to the reports of expert
1678 witnesses, and the court shall not be strictly bound by the
1679 rules of evidence.

1680 (8) If, at the conclusion of the hearing, the court finds,
1681 by clear and convincing evidence, that the inmate is insane to
1682 be executed, the court shall enter its order continuing the stay
1683 of the death warrant; otherwise, the court shall deny the motion
1684 and enter its order dissolving the stay of execution.

1685 Section 31. Section 924.0594, Florida Statutes, is created
1686 to read:

1687 924.0594 Dismissal of postconviction proceedings.—This
1688 section applies only when an inmate seeks both to dismiss a
1689 pending postconviction proceedings and to discharge collateral
1690 counsel.

1691 (1) If an inmate files a motion to dismiss a pending
1692 postconviction motion and to discharge collateral counsel pro
1693 se, the Clerk of the Court shall serve copies of the motion on
1694 counsel of record for both the inmate and the state. Counsel of
1695 record may file responses within 10 days.

1696 (2) The trial judge shall review the motion and the
1697 responses and schedule a hearing. The inmate, collateral
1698 counsel, and the state shall be present at the hearing.

1699 (3) The judge shall examine the inmate at the hearing and
1700 shall hear argument of the inmate, collateral counsel, and the
1701 state. No fewer than 2 or more than 3 qualified experts shall be
1702 appointed to examine the inmate if the judge concludes that
1703 there are reasonable grounds to believe the inmate is not
1704 mentally competent for purposes of this section. The experts
1705 shall file reports with the court setting forth their findings.
1706 Thereafter, the court shall conduct an evidentiary hearing and
1707 enter an order setting forth findings of competency or

1708 incompetency.

1709 (4) If the inmate is found to be incompetent for purposes
 1710 of this section, the court shall deny the motion without
 1711 prejudice.

1712 (5) If the inmate is found to be competent for purposes of
 1713 this section, the court shall conduct a complete
 1714 (Durocher/Faretta) inquiry to determine whether the inmate
 1715 knowingly, freely and voluntarily wants to dismiss pending
 1716 postconviction proceedings and discharge collateral counsel.

1717 (6) If the court determines that the inmate has made the
 1718 decision to dismiss pending postconviction proceedings and
 1719 discharge collateral counsel knowingly, freely, and voluntarily,
 1720 the court shall enter an order dismissing all pending
 1721 postconviction proceedings and discharging collateral counsel.
 1722 If the court determines that the inmate has not made the
 1723 decision to dismiss pending postconviction proceedings and
 1724 discharge collateral counsel knowingly, freely, and voluntarily,
 1725 the court shall enter an order denying the motion without
 1726 prejudice.

1727 (7) If the court denies the motion, the inmate may seek
 1728 review pursuant to s. 924.0581(2). If the court grants the
 1729 motion:

1730 (a) A copy of the motion, the order, and the transcript of
 1731 the hearing or hearings conducted on the motion shall be
 1732 forwarded to the Clerk of the Supreme Court of Florida within 30
 1733 days; and

1734 (b) Discharged counsel shall, within 10 days after issuance
 1735 of the order, file with the clerk of the circuit court two

1736 copies of a notice seeking review in the Supreme Court of
 1737 Florida, and shall, within 20 days after the filing of the
 1738 transcript, serve an initial brief. Both the inmate and the
 1739 state may serve responsive briefs.

1740 (8) (a) Within 10 days of the rendition of an order granting
 1741 a inmate's motion to discharge counsel and dismiss the motion
 1742 for postconviction relief, discharged counsel must file with the
 1743 clerk of the circuit court a notice seeking review in the
 1744 Florida Supreme Court.

1745 (b) The circuit judge presiding over the motion to dismiss
 1746 and discharge counsel shall order a transcript of the hearing to
 1747 be prepared and filed with the clerk of the circuit court no
 1748 later than 25 days from rendition of the final order. Within 30
 1749 days of the granting of a motion to dismiss and discharge
 1750 counsel, the clerk of the circuit court shall forward a copy of
 1751 the motion, order, and transcripts of all hearings held on the
 1752 motion to the clerk of the Florida Supreme Court.

1753 (c) Within 20 days of the filing of the record in the
 1754 Florida Supreme Court, discharged counsel shall serve an initial
 1755 brief. Both the state and the prisoner may serve responsive
 1756 briefs. All briefs must be served and filed as prescribed by
 1757 rule 9.210 of the Rules of Appellate Procedure.

1758 (d) The Florida Supreme Court shall rule on the motion
 1759 within 60 days of the last brief filing deadline.

1760 Section 32. If any provision of this act or the
 1761 application thereof to any person or circumstance is held
 1762 invalid, the invalidity does not affect other provisions or
 1763 applications of the act which can be given effect without the

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1764 invalid provision or application, and to this end the provisions
 1765 of this act are declared severable.

1766 Section 33. Except as otherwise provided herein, this act
 1767 shall take effect July 1, 2015, contingent upon voter approval
 1768 of HJR xxxx in the General Election of 2014.

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